
FINDING AND RECOMMENDATIONS

AS REVISED 2-11-08

Submitted by: Bud Hicks

Finding:

1. Although TRPA ordinances and standards have been adopted in accordance with TRPA environmental documentation standards, they have generally not been adopted with a view towards the mitigation of catastrophic fire hazards. As a result, a number of requirements and standards have been imposed by the TRPA within the Tahoe Basin for the purpose of achieving Environmental Threshold Carrying Capacities, but without sufficient, if any, consideration given to mitigation of hazards that may contribute to catastrophic fires.

Background and Supporting Evidence:

The Tahoe Regional Planning Compact, while specifying that the TRPA shall determine environmental threshold carrying capacities necessary to maintain public health and safety within the region (see, TRPA Compact Art. V(b); Art. II(i)), the TRPA has not expressly considered fire safety matters when adopting many of its ordinances and standards.

The Tahoe Basin Fire Chiefs for the seven fire protection districts/departments in the Tahoe Basin have identified a number of restrictions and impediments within the ordinances and procedures of the TRPA that add to the risks of catastrophic fire, thereby increasing the hazards of such fires to the communities located within the Basin, and to the residents of the Basin. In a letter to the Commission dated September 18, 2007, the Fire Chiefs recommended the following changes to the TRPA Code of Ordinances and various standards:

1. Removal of all restrictions requiring prior approval to remove trees within 100 feet of structures to allow property owners to meet the standards of PRC 4291; the grant of authority by the TRPA to Tahoe Basin Fire Agencies to authorize such tree removals in compliance with PRC 4291 and TRPA's modified ordinance, and without requiring approval or confirmation by a licensed forester.
2. Elimination of coverage requirements with regard to the construction or expansion of ingress/egress roads required for emergency access.

3. Acceptance of a 5 feet wide noncombustible “moat” around all structures and providing that the use of rock, gravel, brick, or pervious concrete in such areas shall not constitute a coverage increase.
4. Acceptance of the removal by property owners of all flammable material, vegetation, or other combustibles (specifically including pine needles and wood mulch) around structures for an area up to 30 feet.
5. Acceptance of 100 feet of defensible space around any structure regardless of ownership.
6. Acceptance of up to 300 feet of defensible space around any structure on sloped properties.
7. Acceptance of the removal of native shrubs and trees under the drip-line of any tree or below any deck or overhang.
8. Agreement by TRPA that the enforcement of building standards and defensible space requirements are solely the responsibility of the local fire agencies.
9. Agreement by TRPA that the fire safety standards of PRC 4291 to be followed within the Basin supersede and have priority over any conflicting BMPs mandated by TRPA code or ordinances.

The TRPA’s staff has advised the Commission that that the TRPA has met with the Fire Chiefs and have addressed most of their recommendations. As to item 1 above, the TRPA Governing Board has recently taken action to allow trees of up to 14” in diameter to be removed by homeowners for defensible space purposes. As to item 2, the TRPA points out that it has always allowed property owners to allow for turnarounds and driveway modifications, provided the property owner provided sufficient coverage for such areas. The TRPA is now consulting with the fire agencies regarding emergency ingress/egress matters when new plans are submitted. However, there are many existing roadways and driveways in the Basin that do not meet the current requirements for emergency ingress/egress.

As to item 3, the TRPA reports that it has no objections to the 5 feet wide noncombustible “moat” concept and that no new changes are necessary. As to item 4, this Commission is considering, with TRPA input, other Findings and Recommendations that specifically address acceptable defensible space practices. Similarly, the TRPA reports that as to items 5 and 6, these defensible space practices are acceptable to the TRPA and are already addressed in TRPA code and practice. However, TRPA reports that existing MOUs with the fire agencies may have to be modified with regard to such matters.

As to items 7 and 8, TRPA reports that these matters are not subject to TRPA code and practices and therefore not of concern to the TRPA. However, with regard to item 9, the TRPA reports that it and the Fire Chiefs are close to resolution of the conflicts between BMPs and PRC Code Sec. 4291, and that if code changes are necessary, they will be presented to the TRPA Governing Board for approval.

Recommendations:

1. All TRPA ordinances and procedures, whether presently existing or as may be proposed in the future, that affect forest health issues and public safety from catastrophic fire should be reviewed in a cooperative, collaborative manner by the TRPA and qualified professionals with experience in fire prevention and fighting catastrophic fires to assure that said ordinances and procedures do not pose undue risks of catastrophic fire or create conditions that may increase the risk of such fires to communities within the Basin or which may otherwise endanger public safety, and to thereafter be amended or modified by the TRPA if necessary to facilitate the mitigation of undue fire hazards.

2. That with regard to the remaining issues to be resolved between the Fire Chiefs and the TRPA, The Governors of California and Nevada should request the Governing Board of the TRPA to take the following actions no later than June 1, 2008:

a. With reference to item 2 of the Fire Chiefs' recommendations, the Governing Board should commence formulation of suitable modifications to its ordinances and requirements to permit the widening or enlargement of roadways and driveways in order to improve reasonable emergency access by the fire agencies without requiring property owners to have to provide additional coverage for such public safety improvements;

b. With reference to item 6 of the Fire Chiefs' recommendations, the Governing Board and the respective fire agencies should complete and have in place amended MOUs regarding the matters addressed in the Fire Chiefs' letter; and

c. With reference to item 9 of the Fire Chiefs' letter, the Governing Board should take actions to reconcile all existing BMP requirements with the requirements of Cal. PRC Sec. 4291.

Impacts of Implementation: *(The implementation of any Recommendation is likely to have specific impacts. Consider potential consequences related to each of the following areas):*

Analysis of impacts on the following factors is REQUIRED (Best Estimate):

- ☐ Cost / It will be necessary for the review of TRPA ordinances and procedures to be funded by either the TRPA, the Fire Chiefs, or by a

group such as a Fire Safe Council. To the extent TRPA staff is used to participate in such a review, its budget will require supplementation. The costs of such a review are unknown at this time, and would need to be developed. The other actions recommended in this F&R (i.e., the costs of amending the MOUs with the fire agencies and modification of its ordinances with regard to enhancing emergency ingress/egress to properties), should be able to be completed within existing budgets.

- ☐ Funding source / to the extent additional funding for forest fuels reductions and fire prevention matters must be addressed by the TRPA, it will be necessary for the TRPA to expeditiously formulate a budget request and submit it to the States of Nevada and California for funding. Similarly, it will require the States to expeditiously respond to such budget request.
- ☐ Staffing / To be determined.
- ☐ Existing regulations and/or laws / Modifications to some existing TRPA ordinances or procedures may be necessary.

Analysis of impacts on the following factors is OPTIONAL:

- ☐ Operational
- ☐ Social
- ☐ Political
- ☐ Policy
- ☐ Health and Safety
- ☐ Environmental
- ☐ Interagency

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